

NORTH AMERICAN WETLANDS CONSERVATION
EXTENSION ACT

JUNE 30, 2014.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2208]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2208) to extend the authorization of appropriations for allocation to carry out approved wetlands conservation projects under the North American Wetlands Conservation Act through fiscal year 2017, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “North American Wetlands Conservation Extension Act”.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking “not to exceed—” and all that follows through paragraph (5) and inserting “not to exceed \$35,000,000 for each of fiscal years 2015 through 2018.”.

SEC. 3. LIMITATION ON EXPENDITURES FOR FEE TITLE ACQUISITION.

(a) **LIMITATION.**—Section 6 of the North American Wetlands Conservation Act (16 U.S.C. 4405) is amended by adding at the end the following:

“(c) **LIMITATION ON EXPENDITURES FOR LAND ACQUISITION.**—Amounts appropriated under the authority of this Act may not be used—

“(1) by the Secretary to acquire fee title to land on behalf of the United States;

“(2) by the Secretary to acquire fee title to any land from a third party who used funds appropriated under the authority of this Act to acquire fee title to that land unless the Secretary can certify that the Secretary has sufficient available funds to properly manage and maintain the land being acquired, including the provision of access for hunting; or

“(3) by a nongovernment organization to acquire fee title to land within the United States unless the acquisition is approved by the State or insular area fish and wildlife agency with jurisdiction with respect to that land.”.

(b) APPLICATION.—The amendment made by subsection (a) shall not apply with respect to any specific land acquisition required by contract or other agreement entered into before the date of enactment of this Act.

SEC. 4. ANNUAL REPORT ON EXPENDITURES.

Section 10(2) of the North American Wetlands Conservation Act (16 U.S.C. 4409(2)) is amended to read as follows:

“(2) an annual assessment of the status of wetlands conservation projects, including an accounting of—

“(A) expenditures by Federal, State, and other United States entities;

“(B) expenditures made for fee-simple acquisition of Federal lands in the United States; and

“(C) expenditures by Canadian and Mexican sources to carry out wetland projects funded under this Act.”.

PURPOSE OF THE BILL

The purpose of H.R. 2208 is to extend the authorization of appropriations for allocation to carry out approved wetlands conservation projects under the North American Wetlands Conservation Act through fiscal year 2017.

BACKGROUND AND NEED FOR LEGISLATION

In 1989, Congress enacted the North American Wetlands Conservation Act (NAWCA). The fundamental goal of this law is to restore waterfowl populations through partnerships involving federal, State, provincial, territorial, and tribal governments joining forces with private conservation organizations and individuals. NAWCA provides a funding mechanism for cooperative public-private wetlands conservation efforts throughout North America. Funding for these projects is drawn from four sources: interest from short-term investment of the Federal Aid in Wildlife (Pittman-Robertson) Restoration Fund; fines and forfeitures imposed for violations of the Migratory Bird Treaty Act; a portion of the Sport Fish Restoration Fund; and appropriated dollars.

The underlying law also established the North American Wetlands Conservation Council, which has nine members representing federal and state fish and wildlife agencies, nonprofit organizations participating in wetland conservation, and the National Fish and Wildlife Foundation, to oversee the distribution of funds. Any federal, State, local, or private organization may apply for a grant to conduct a wetlands conservation project in North America. The Migratory Bird Conservation Commission, a seven-member commission, is required to serve as the final arbiter by providing funding approval for projects recommended by the Council.

These projects aim to protect and/or restore wetlands and associated uplands, and, for projects in Mexico, provide funding for educational activities. All grants must be matched at least 1:1 with non-federal funds. NAWCA is a highly competitive matching grant program with requests for projects far exceeding available funds on an annual basis. Congress passed this law to fund migratory bird habitat conservation throughout the entire North American range

and the Council has traditionally allocated 50 percent of the funds for projects in the United States, 45 percent for projects in Canada and five percent for projects in Mexico. Under current law, the Council must allocate at least 30 percent and not more than 60 percent for projects in these two foreign countries.

In fiscal year 2014, Congress appropriated \$34.1 million for the North American Wetlands Conservation Fund. In addition, it is anticipated that contributions from interest on Pittman-Robertson funds will total \$7.186 million. Fines and forfeitures under the Migratory Bird Treaty Act will add \$651,000. In addition, the National Coastal Wetlands Planning, Protection and Restoration Program within the Sport Fish Restoration Fund will contribute about \$15.881 million. In total, \$57.818 million should be available for grants in the United States, Canada and Mexico.

Since the first wetlands grants were awarded in 1991, over 2,200 grant projects have been funded by the Migratory Bird Conservation Commission. These grants, involving more than 5,000 partners, have invested \$1.24 billion in federal funds and more than \$3.4 billion in private matching contributions. This money was used to acquire, create and restore nearly 27 million acres of wetlands and associated uplands in the United States, Canada and Mexico. In addition, these grants were also responsible for erosion and flood control.

In terms of overall funding, during the past 25 years, NAWCA has received \$687 million in appropriated dollars with the highest level of \$47.6 million occurring in fiscal year 2010. This has been matched by more than \$3.4 billion in private matching money. Since NAWCA's initial enactment in 1989, Congress has extended it on four separate occasions. The most recent reauthorization occurred in 2006, when Congress enacted legislation extending the authorization of appropriation level of up to \$75 million each year until September 30, 2012.

During Full Committee markup of H.R. 2208, Chairman Doc Hastings (R-WA) offered an amendment that set the annual authorization level of \$35 million each year. This level reflects the actual budget appropriations for the program. In addition, the Chairman's amendment placed a limit on federal acquisition of fee title land, ensuring that this critical funding is directed primarily to conservation projects which generates 10:1 benefit versus fee title acquisition, requires approval of governors in states where fee title acquisition is done, and for the first time establishes an annual audit of all NAWCA program expenditures. The amendment was adopted by voice vote.

COMMITTEE ACTION

H.R. 2208 was introduced on May 23, 2013, by Congressman Robert J. Wittman (R-VA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. On August 2, 2013, the Subcommittee held a hearing on the bill. On April 9, 2014, the Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Chairman Doc Hastings (R-WA) offered an amendment designated #1. Delegate Madeleine Bordallo (D-GU) offered an amendment to the Hastings

amendment designated .001; the amendment was not adopted by a roll call vote of 14 to 22, as follows:

Committee on Natural Resources

U.S. House of Representatives

113th Congress

Date: April 9, 2014

Recorded Vote #: 3

Meeting on / Amendment on: **H.R. 2208 - BORDOLLO.001**, Amendment to the Hastings of Washington
Amendment #1, was NOT AGREED TO by a roll call vote of 14 yeas and 22 nays.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman		X		Mr. Duncan of SC		X	
<i>Mr. DeFazio, OR, Ranking</i>	X			<i>Mr. Cardenas, CA</i>			
Mr. Young, AK				Mr. Tipton, CO		X	
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Huffman, CA</i>	X		
Mr. Gohmert, TX		X		Mr. Gosar, AZ		X	
<i>Mr. Pallone, NJ</i>	X			<i>Mr. Ruiz, CA</i>	X		
Mr. Bishop, UT		X		Mr. Labrador, ID		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Ms. Shea-Porter, NH</i>	X		
Mr. Lamborn, CO		X		Mr. Southerland, FL		X	
<i>Mr. Holt, NJ</i>	X			<i>Mr. Lowenthal, CA</i>	X		
Mr. Wittman, VA		X		Mr. Flores, TX			
<i>Mr. Grijalva, AZ</i>				<i>Mr. Garcia, FL</i>	X		
Mr. Broun, GA		X		Mr. Runyan, NJ			
<i>Ms. Bordallo, GU</i>	X			<i>Mr. Cartwright, PA</i>	X		
Mr. Fleming, LA		X		Mr. Mullin, OK		X	
<i>Mr. Costa, CA</i>	X			<i>Ms. Clark, MA</i>	X		
Mr. McClinton, CA		X		Mr. Daines, MT		X	
<i>Mr. Sablan, CNMI</i>				Mr. Cramer, ND		X	
Mr. Thompson, PA		X		Mr. LaMalfa, CA		X	
<i>Ms. Tsongas, MA</i>				Mr. Smith, MO		X	
Mrs. Lummis, WY		X		Mr. McAllister, LA			
<i>Mr. Pierluisi, PR</i>	X			Mr. Byrne, AL		X	
Mr. Benishek, MI		X		<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>							
				TOTALS	14	22	

The Hastings amendment was adopted by voice vote. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2208—North American Wetlands Conservation Extension Act

Summary: H.R. 2208 would authorize the appropriation of \$35 million a year through 2018 for programs carried out under the North American Wetlands Conservation Act (NAWCA). The U.S. Fish and Wildlife Service (USFWS) uses amounts appropriated under NAWCA primarily for grants to state, local, and tribal governments, nonprofit organizations, and other entities that carry out wetlands conservation projects.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would cost \$110 million over the 2015–2019 period and \$30 million after 2019. Enacting H.R. 2208 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2208 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2208 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

For this estimate, CBO assumes that the bill will be enacted near the end of 2014 and that the authorized amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for this program.

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level ^a	35	35	35	35	0	140

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
Estimated Outlays	12	20	27	35	16	110

^a The U.S. Fish and Wildlife Service received appropriations totaling \$34 million in fiscal year 2014 to carry out activities under the North American Wetlands Conservation Act.

Intergovernmental and private-sector impact: H.R. 2208 contains no intergovernmental or private-sector mandates as defined in UMRA. Enacting this legislation would benefit state, local, and tribal governments because they would receive a portion of any authorized amounts.

Previous CBO estimate: On February 28, 2014, CBO transmitted a cost estimate for S. 741, the North American Wetlands Conservation Extension Act of 2014. The two bills are similar; however, the Senate version of the legislation would authorize the appropriation of \$55 million a year through 2019. In addition, CBO assumed that S. 741 would be enacted earlier in 2014 and that supplemental appropriations would be provided in that year. The CBO cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing the legislation would cost \$110 million over the 2015–2019 period and \$30 million after 2019.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to extend the authorization of appropriations for allocation to carry out approved wetlands conservation projects under the North American Wetlands Conservation Act through fiscal year 2017.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does reauthorize a program of the federal government known to be duplicative of an-

other federal program. Such program was identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs. Those programs are the Sport Fish Restoration program, wildlife restoration, Coastal Wetlands Planning, Protection and Restoration Act, and neotropical migratory bird conservation.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NORTH AMERICAN WETLANDS CONSERVATION ACT

* * * * *

SEC. 6. CONDITIONS RELATING TO WETLANDS CONSERVATION PROJECTS.

(a) * * *

* * * * *

(c) *LIMITATION ON EXPENDITURES FOR LAND ACQUISITION.—Amounts appropriated under the authority of this Act may not be used—*

(1) *by the Secretary to acquire fee title to land on behalf of the United States;*

(2) *by the Secretary to acquire fee title to any land from a third party who used funds appropriated under the authority of this Act to acquire fee title to that land unless the Secretary can certify that the Secretary has sufficient available funds to properly manage and maintain the land being acquired, including the provision of access for hunting; or*

(3) *by a nongovernment organization to acquire fee title to land within the United States unless the acquisition is approved by the State or insular area fish and wildlife agency with jurisdiction with respect to that land.*

SEC. 7. AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) * * *

* * * * *

(c) *AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act [not to exceed—] not to exceed \$35,000,000 for each of fiscal years 2015 through 2018.*

[(1) \$55,000,000 for fiscal year 2003;

[(2) \$60,000,000 for fiscal year 2004;

[(3) \$65,000,000 for fiscal year 2005;

[(4) \$70,000,000 for fiscal year 2006; and

[(5) \$75,000,000 for each of fiscal years 2008 through 2012.]

* * * * *

SEC. 10. REPORT TO CONGRESS.

The Secretary shall report to the appropriate Committees on the implementation of this Act. The report shall include—

(1) *

[(2) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.]

(2) *an annual assessment of the status of wetlands conservation projects, including an accounting of—*

(A) expenditures by Federal, State, and other United States entities;

(B) expenditures made for fee-simple acquisition of Federal lands in the United States; and

(C) expenditures by Canadian and Mexican sources to carry out wetland projects funded under this Act.

* * * * *

DISSENTING VIEWS

The North American Wetlands Conservation Act (NAWCA) is critical to protecting habitat for waterfowl and other migratory birds, and has enjoyed broad, bipartisan support in Congress since its passage in 1989. NAWCA implements the U.S. commitment to the North American Waterfowl Management Plan; NAWCA grants have protected, restored, or enhanced 27.1 million acres of wetlands at least 1:1 by non-Federal funds, which leverages significant contributions from states and private partners. NAWCA projects use fee title ownership, conservation easements, and landowner agreements to ensure conservation benefits for the long term (25 years or more), to the benefit of birds, fish, and other wildlife, as well as wildlife-dependent recreation for millions of Americans.

As introduced, H.R. 2208 would have reauthorized appropriations for NAWCA through 2017 at \$75 million—the level set in the last reauthorization. While the amount appropriated in FY 2013 was \$33.6 million, funding climbed as high as \$47.6 million in 2008, before the recession. Keeping the \$75 million authorization level in place would allow conservation of more wetlands as the economy continues to improve and we, along with a coalition of conservation and sportsmen's groups including Ducks Unlimited, The Nature Conservancy, and the Association of Fish and Wildlife Agencies, supported the bill as introduced.

Unfortunately, the Republican majority insisted on a hostile amendment to H.R. 2208, leaving the legislation as reported significantly flawed. The amendment slashes the authorization level to \$35 million and prohibits the Secretary of the Interior from using these funds to acquire land.

Fee title purchase of land is sometimes the only way to ensure conservation of critical wetlands, especially in coastal areas with heavy development pressure. It is vital that federal managers have this tool, along with sufficient funding, to address conservation priorities for hunters, anglers, and other outdoor enthusiasts. Because the Republican amendment defeats both of these purposes, we oppose H.R. 2008, as reported.

PETER DEFAZIO,
*Ranking Member, Committee
on Natural Resources.*

GREGORIO KILILI CAMACHO
SABLAN,
*Ranking Member, Sub-
committee on Fisheries,
Wildlife, Oceans and Insu-
lar Affairs.*

